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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,879	09/16/2005	Kaoru Yanamoto	450100-04984	5881
7590 William S Frommer Frommer Lawrence & Haug 745 Fifth Avenue New York, NY 10151				
10/02/2008				
EXAMINER NEURAUTER, GEORGE C				
ART UNIT		PAPER NUMBER		
2143				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/549,879

Applicant(s)

YANAMOTO ET AL.

Examiner

George C. Neurauter, Jr.

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-27 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 15-27 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 16 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s) and Mail Date 9/16/2005 12/4/2006
4) ☐ Interview Summary (PTO-413)
Paper No(s) and Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Claims 15-27 are currently presented and have been examined.

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 22 and 27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

MPEP 2106 states:

"Similarly, computer programs claimed as computer listings *per se*, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized....Since a computer program is merely a set of instructions capable of being executed by a computer, the computer program itself is not a process and Office personnel should treat a claim for a computer program, without the computer-readable medium needed to realize the computer program's functionality, as nonstatutory functional descriptive material."

Claims 22 and 27 recite a computer program that does not recite a computer readable storage medium, therefore, these claims are considered to be nonstatutory functional descriptive material since the computer program's functionality cannot be realized.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 17 recites "predetermined data". It is unclear what specific characteristic of the data is "predetermined".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15-27 are rejected under 35 U.S.C. 102(b) as being anticipated by "RTP: A Transport Protocol for Real-Time Applications" ("RTP").

Regarding claim 15, "RTP" disclosed a sending-receiving system comprising a sender apparatus for transmitting data ("Synchronization" or "Contributing" "source") and a receiver apparatus for receiving said data transmitted by said sender apparatus

("end system" that receives "content" that is "consumed"); wherein said sender apparatus includes: an acquiring section for acquiring said data; a supplementing section for supplementing said data acquired by said acquiring section with sequence information (adding a header to data that includes a "sequence number"; see also pages 9-13, section 5.1) for indicating a sequence of said data; a sending section for transmitting to said receiver apparatus said data supplemented with said sequence information by said supplementing section; a storing section for storing said data supplemented with said sequence information by said supplementing section; and an ordering section for ordering said sending section to transmit the data retrieved from said storing section upon elapse of a predetermined time period ("duration" or "sampling period"; see also pages 11-12, section 5.1, specifically the paragraph describing the "timestamp" field) following transmission of said data by said sending section; and wherein said receiver apparatus includes: a receiving section for receiving said data transmitted by said sending section; a determining section for determining whether or not said data received by said receiving section has been received already based on said sequence information extracted from said data; and a storage controlling section for discarding said data if said data received by said receiving section is found already received (see at least page 45, section 8.2, specifically "If a receiver discovers that two other sources are colliding, it may...discard the packets from the other..."), said storage controlling section further storing said data if said data received by said receiving section is not found received already. (see at least pages 4-5, section 2.1, specifically the paragraph beginning "The audio conferencing application used by each conference

participant..." and pages 7-9, section 3, specifically the definitions of "Synchronization source (SSRC)" and "Mixer")

Claims 16, 20-23 and 25-27 are also rejected since these claims recite in whole or in part substantially the same limitations as recited in claim 15.

Regarding claim 17, "RTP" disclosed the sender apparatus according to claim 16, further comprising a determining section for determining whether or not predetermined data ("data" that is been stored and waiting to be sent at the end of the "sampling period") is included in said data acquired by said acquiring section; wherein said storing section stores said predetermined data if said determining section determines that said predetermined data is included in said data; and wherein said ordering section retrieves said predetermined data from said storing section and orders said sending section to transmit said predetermined data thus retrieved. (see at least pages 4-5, section 2.1, specifically the paragraph beginning "The audio conferencing application used by each conference participant..." and pages 11-12, section 5.1, specifically the paragraph describing the "timestamp" field)

Regarding claim 18, "RTP" disclosed the sender apparatus according to claim 16, further comprising a determining section for determining whether or not audio data is included in said data acquired by said acquiring section; wherein, if said determining section determines that audio data is included in said data, then said storing section stores said audio data and a header attached to said audio data (see pages 10-13, section 5.1); and wherein said ordering section retrieves said header and said audio data from said storing section and orders said sending section to transmit the retrieved

header and audio data. (see at least pages 4-5, section 2.1, specifically the paragraph beginning "The audio conferencing application used by each conference participant..." and pages 7-9, section 3, specifically the definitions of "Synchronization source (SSRC)" and "Mixer")

Regarding claim 19, "RTP" disclosed the sender apparatus according to claim 18, wherein said header is an RTP header. (see at least pages 10-13, section 5.1, "RTP Fixed Header Fields")

Regarding claim 24, "RTP" disclosed the receiver apparatus according to claim 23, wherein, if continuity of said data received by said receiving means is found disrupted on the basis of said sequence information, then said determining means determines whether or not said data is the already-received data. (see at least page 3, specifically "The sequence numbers included in RTP allow the receiver to reconstruct the sender's packet sequence, but sequence numbers might also be used to determine the proper location of a packet, for example in video decoding, without necessarily decoding packets in sequence.")

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Neurauter, Jr. whose telephone number is (571)272-3918. The examiner can normally be reached on the hours between 8:30am-5:00pm Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger, can be reached on 571-272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George C. Neurauter, Jr./
Primary Examiner, Art Unit 2143